



June 5, 2012

Re: Continuation of Cable Viewability Requirements for Digital Must Carry  
Television Stations, CS Docket No. 98-120

Dear Chairman Genachowki and Commissioners McDowell, Clyburn, Pai and  
Rosenworcel:

We write to offer our strong support for adoption of the FCC's proposal to extend the viewability rule for **three years** as set forth in the Commission's February 2012 Notice of Proposed Rulemaking in CS Docket No. 98-120. We oppose a much more limited and inadequate six-month extension of the rule, a revised proposal that is reportedly circulating within the Commission (Communications Daily, May 25, at 5). Without prompt Commission action, the rule will sunset on June 12, 2012. Loss of the viewability protections afforded by the rule would disproportionately harm low-income and minority households as well as viewers of religious programming, emerging foreign language services, and other specialty programming. In addition, the loss of this important viewing block will seriously handicap other affected local broadcasters and negatively impact competition and local diversity of viewpoints.

Congress mandated that cable systems carry local broadcast stations through the 1992 Cable Act's must-carry requirements. Congress further directed that those stations "must be viewable on all television sets that are connected to the cable system." The Commission currently has in place viewability requirements to enforce this congressional mandate. In February, the Commission proposed extending the viewability rule for three years because 12.6 million cable households remain analog-only and the vast majority of cable subscribers are served by "hybrid" systems that provide both analog and digital services. Even many of these consumers who subscribe to digital tiers on one set continue to rely on analog service for second or third TV sets. As a result, the number of subscribers at risk of losing access to local stations nationwide if the rule sunsets is many millions more than the 12.6 million analog-only cable homes.



Millions of analog households, most with average incomes under \$50,000, either cannot afford or choose not to take on the added expenses of digital cable tiers and the set-top box costs required with digital services. Accordingly, the FCC must follow through on its rulemaking proposal and extend the viewability rule for three years or until such time as digital cable is available to 95 percent of cable households. Any earlier sunset of the rule would deprive consumers of programming choices they now enjoy and unduly harm broadcasters dependent on must carry, particularly and disproportionately those that serve niche and underserved audiences. Allowing must-carry stations to vanish from analog homes and analog televisions by sunseting the viewability rule would inappropriately thrust the FCC into the position of picking “winners” and “losers” in the competitive television market.

Cable operators’ claims that the rule is unduly burdensome ring hollow. The expense required of cable operators to obtain equipment needed to convert digital broadcast signals to analog has already been incurred. Retention of the rule will actually serve as an incentive for cable operators to build out digital systems—a meaningful way to free up bandwidth—while allowing the viewability rule to sunset would reward a lack of investment from cable providers, further delay the deployment of digital cable systems, and deny cable subscribers access to diverse programming.

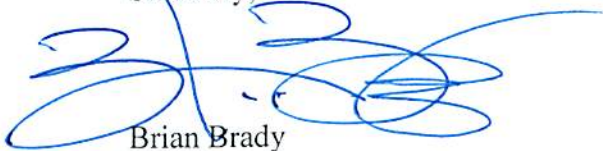
Moreover, the “solutions” put forth by the cable operators are not viable. First, the vast majority of affected viewers will be unaware of the change and will abruptly lose access to programming they now enjoy if the viewability rule is allowed to sunset. The learning curve for affected customers would be akin to the digital transition, which took three years and hundreds of millions of dollars in education. Six months is simply not enough time.

Second, the new hardware proposed by the cable operators will be required only to view must-carry stations in the basic tier, not all stations. Analog viewers may be unwilling or unable to take the steps necessary to obtain, pay for, and install new equipment, and the cable operators’ proposed requirement does not provide that all analog sets in the home would be equipped. This proposal would eliminate a relatively insignificant burden that has already been incurred by cable and instead shift financial responsibility to consumers, a possibility not contemplated by Section 614 of the Communications Act. The viewability rule follows directly from the statutory mandate of Section 614(b)(7) of the Communications Act, which requires cable operators to make every must-carry station available to every cable subscriber. The FCC recognized this unambiguous statutory imperative when it adopted the viewability rules in 2007, and it repeated that

interpretation of the statute in the NPRM. The FCC has never permitted cable operators to satisfy their must-carry obligations by requiring customers to obtain new limited-use equipment like a "digital transport adaptor," and it should not start now.

For the reasons stated above, the Commission should move forward to implement its sensible proposal to extend the viewability rule for another three years, recognizing that a substantial proportion of cable subscribers still rely on analog service and should continue to have full access to all local broadcast services. The benefits of extending the viewability rule clearly outweigh the costs.

Sincerely,



Brian Brady  
President and Chief Executive Officer

cc: Senator Maria Cantwell (via facsimile)  
Senator Michael Crapo (via facsimile)  
Senator Kirsten Gillibrand (via facsimile)  
Congressman Doc Hastings (via facsimile)  
Congressman Maurice Hinchey (via facsimile)  
Congressman Raul Labrador (via facsimile)  
William Lake, Chief, Media Bureau (via e-mail)  
Congresswoman Cathy McMorris Rodgers (via facsimile)  
Senator Jeff Merkley (via facsimile)  
Senator Patty Murray (via facsimile)  
Senator Jim Risch (via facsimile)  
Senator Charles Schumer (via facsimile)  
Congressman Greg Walden (via facsimile)  
Senator Ron Wyden (via facsimile)